

K.A.R. 28-19-11 SSM Regulation Update

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Our Mission: To protect and improve the health and environment of all Kansans.



Why change?

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From EPA:

- This action responds to a petition for rulemaking filed by the Sierra Club by addressing outdated provisions in State Implementation Plans (SIPs), improving national consistency and providing clarity for the treatment of emissions that occur during startup, shutdown and malfunction (SSM).

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Requires the removal of automatic exemptions from emission limits during periods of startup, shutdown and malfunction, from our SIP (K.A.R. 28-19-11).

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Specifically, the following language in 28-19-11 is what earned us a place in the SIP call:

“...emissions in **excess of the limitations** specified in the emission control regulations **shall not be deemed violations...**”

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Specifically, the following language in 28-19-11 is what earned us a place in the SIP call:

“...emissions in **excess of the limitations** specified in the emission control regulations **shall not be deemed violations...**”

Must be changed by November 22, 2016. Will be published in Kansas Register August 11, 2016.

How should we change it?

BOA staff drafted a complete rewrite of 28-19-11 which listed very specific reporting requirements to be submitted to “request a determination from the department if an enforcement action is warranted.”

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How should we change it?

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KDHE held a stakeholder’s meeting on May 24, 2016 in Topeka and also accepted comments on the proposed rule.

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KDHE held a stakeholder’s meeting on May 24, 2016 in Topeka and also accepted comments on the proposed rule.

Many commenters felt the new rule was cumbersome and complex compared to the existing rule.

How should we change it?

Taking the comments into account, KDHE decided to scrap the first revision and began revision 2.

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How should we change it?

Taking the comments into account, KDHE decided to scrap the first revision and began revision 2.

In revision 2, we opted to minimize changes, beginning with the offending language within 28-19-11, but still have something that would be acceptable.

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malfunctions, or scheduled maintenance. (a) Abnormal operating conditions resulting An emission source having emissions that are in excess of the applicable emission limitation and standard and result from malfunction breakdown startup, shutdown, malfunctions, and or necessary repairs to scheduled maintenance of control or processing equipment and appurtenances which cause emissions in excess of the limitations specified in the emission control regulations shall not be deemed violations provided that may be exempt from enforcement action at the secretary's discretion if both of the following conditions are met:

(1) The person responsible for the operation of the emission source notifies the department of the occurrence and nature of such malfunctions, breakdown, or repairs the excess emissions resulting from startup, shutdown, malfunctions, or scheduled maintenance, in writing, within ten (10) days of noted occurrence discovery of the excess emissions.

(2) ~~The number of occurrences of such breakdowns is not deemed excessive by the department and appropriate~~ Reasonable action is taken regarding the occurrence specified in paragraph (a)(1) to initiate and complete any necessary repairs and place the equipment back in operation as quickly as possible.

(b) Emissions that are in excess of the applicable emission source emission limitation and standard and result from startup, shutdown, or malfunctions shall be evaluated by the secretary for potential enforcement action based on the frequency and severity of the excess emissions.

(c) ~~Emissions that are in excess of the limitations specified in these emission control regulations resulting the applicable emission source emission limitation and standard and result from scheduled maintenance of control or processing equipment and appurtenances will~~ shall be

permitted only on the basis of evaluated by the secretary for potential enforcement action based on the following:

(1) The severity of the excess emissions;

(2) any prior approval for scheduled maintenance by the department secretary; and

(3) upon demonstration that such the scheduled maintenance cannot be accomplished by maximum reasonable effort, including off-shift labor where required, during periods of shutdown of any related control or processing equipment.

~~(c) Excessive contaminant emission from fuel burning equipment used for indirect heating purposes resulting from fuel or load changes, start up, soot blowing, cleaning of fires, and rapping of precipitators will not be deemed violations provided that they do not exceed a period or periods aggregating more than five (5) minutes during any consecutive one (1) hour period. Provided, however, That where the operator of such equipment can demonstrate to the satisfaction of the department that any such specific operational procedures will require that the allowable time period for excessive emissions be extended beyond five (5) minutes during any one hour, the department may authorize, upon request of the operator, an adjusted time schedule for permitting such excessive emissions. Such authorization shall require that visible emissions not exceed an opacity of 60 percent; and shall specify an appropriate time and daily frequency schedule for such excessive emissions~~

(d) Any exemption granted under this regulation may be rescinded if the secretary obtains additional information and deems enforcement action necessary based upon this information.

(e) Lack of enforcement for excess emissions under this regulation shall not preclude the

Revision 2 to final

Main point of the regulation

- Exceedances are violations but may qualify for enforcement discretion
 - for startup, shutdown or malfunctions if:
 - notified within 10 days
 - repairs made within reasonable time
 - for scheduled maintenance if:
 - determined to be not excessive
 - whether there has been prior authorization
 - demonstration that maintenance can't be done when offline

Summary

- Exceedances are violations but may qualify for enforcement discretion
- Not required but similar to Class I's requirements
- Does not protect against outside lawsuits
- On track for meeting the SIP call deadline

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